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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 25th May 1957

S.R.O. 1913.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 370 of 1957, presented to the Commission on the 29th April, 1957, under section 81 of the said Act, by Shri Fateh Singh son of Shri Narain Singhji, resident of Sanganeri Gate, Shankotra House Subzimandi, Jaipur City, calling in question the election to the House of the People from the Dausa Parliamentary constituency of that House of Shri Gajadhar Somani son of Shri Hazari Mal Somani, resident of Shriniwas House, Waudby Road, Bombay No. 1.

Presented to me by Shri Fateh Singh whose signature has been obtained in the margin and attested as having been signed before me this the twenty ninth day of April One Thousand Nine Hundred and Fifty Seven.

(Sd.) DIN DAYAL,

Under Secretary,

Election Commission, India.

(Sd.) FATEH SINGH,

Attested.

(Sd.) DIN DAYAL,

Under Secretary.

THE ELECTION COMMISSION OF INDIA, NEW DELHI

ELECTION PETITION No. 370 OF 1957

Election Petition in the matter of election to the Dausa House of the People Constituency

Shri Fateh Singh s/o Shri Narain Singhji, resident of Sanganeri Gate, Shankotra House, Subzimandi, Jaipur City—Petitioner.

Versus

Shri Gajadhar Somani son of Shri Hazari Mal Somani, resident of Shriniwas House, Waudby Road, Bombay No. 1—Respondent.

The humble petition of the above named petitioner.

Most Respectfully Sheweth:

1. That the petitioner was the nominated candidate at the election detailed above and is entitled to present this petition.

2. That the counting of votes took place on 14th and 15th March, 1957 with the following result:—

(i) Shri Gajadhar Somani	..	..	..	..	..	54817
(ii) Dr. Nand Lal Sharma	..	..	..	..	..	41486
(iii) Shri Fateh Singh	..	..	..	..	..	33100
(iv) Shri Th. Guman Singh	..	..	..	..	..	10423

3. That the respondent was declared elected on 15th March, 1957 having secured the majority of votes.

4. That the respondent asserts that the election of respondent is void and is liable to be set aside on the following grounds:—

- (i) That the respondent himself and through his agents committed the corrupt practice of bribery in the form of;
- (a) That one Shri Lallu Lal Qanungo who had filed his nomination paper, had withdrawn after the scrutiny of nomination papers as he was paid Rs. 5000/- by respondent through Bansidhar Rambilas, Commission Agents, Ramganj Bazar, Jaipur.
- (b) that a large number of electors were paid Re 1/- each by the agents of Respondent with the object of securing votes for respondent.
- (c) that sweets at every polling station were distributed to the electors to secure their votes.

The detailed particulars and instances are set out in Schedule I.

5. That the said respondent himself and through his agents unduly influenced the electors in the form of:

(i) that in the mosques meetings of the Muslims were held and the Mullahs gave a 'FATVA' that the Muslims should vote for Shri Somani who was a congress candidate. In case Muslims did not vote for the said congress candidate they will be annihilated and they will be sent to Pakistan and will be subjected to the wrath of ALLAHA. The Muslim Electors out of fear did not exercise the electoral right freely and were thus unduly influenced to vote for the respondent. The aforesaid 'Fatva' was widely propagated throughout the constituency particularly amongst the Muslim voters. Particulars of the places where the meetings were held and other details are set out in Schedule II.

6. That the said respondent and his agents procured vehicles for the conveyance of electors to the Polling stations and back to their places. The details of polling stations to which the electors were so carried out on conveyance and other particulars are set out in detail in Schedule III.

7. That the said respondent far exceeded the prescribed maximum limit of election expenses.

8. That the return of election expenses lodged by the said respondent is false in material particulars, and it has been so done with the corrupt motive.

The details of excess expenses over the maximum and the material particulars which are omitted from the return of expenses are set out in detail in Schedule IV.

9. That the said respondent, his agents and many others further propagated the false statement that the petitioner had withdrawn from the contest for the Dausa House of the People Constituency and was only contesting the election for Jamwa Ramgarh Rajasthan Assembly Constituency. The said false statement was published and was reasonably calculated to prejudicce the prospects of election of your petitioner and such publication actually resulted in a large number of voters being misled and not voting for the petitioner for the said election. The details are set out in Schedule V.

10. That one Shri Srinarayan had also submitted his nomination paper but his nomination paper was rejected by the Returning Officer, on the ground that

against col. No. 2 the Parliamentary Constituency in which the proposer was enrolled was not mentioned and therefore, the Returning Officer thought that he could not satisfy himself about the requirements of sub section 4 of section 33 of the Representation of the People Act, 1951.

11. The petitioner asserts that the nomination paper of Sri Shrinarayan was improperly rejected on the following grounds:—

- (a) That under the law it was not necessary to mention the name of the constituency where the proposer is a voter.
- (b) That there was sufficient indications that the serial number of Shri Shrinarayan referred to the electoral roll of Dausa Parliamentary Constituency for which the Nomination paper was submitted.
- (c) That under sub-section 4 of the section 33 of the said act while examining the Nomination paper on presentation it was incumbent on the returning officer to have satisfied himself that the names and electoral roll numbers of the proposer entered in the nomination paper are the same as those entered in the electoral rolls. The words electoral rolls mentioned in this sub-section referred to the electoral rolls for which Shri Narain Dass Mehta was the Returning Officer, it did not refer to any other roll of any other Constituency. As Shri Narayan Das Mehta was Returning Officer only for Dausa House of People Constituency he was in possession of only electoral rolls for the Dausa House of the Peoples Constituency and as such he should have referred to the electoral roll of the said constituency.
- (d) That by mentioning the serial number and the part of the Electoral Roll the entry against column No. 2 was in full compliance with the provisions of law.
- (e) That if the returning officer had looked into part No. 38 of the Dausa House of the People Constituency Electoral roll he could without any difficulty find out the name and serial number 9 in that electoral roll of the proposer.
- (f) That on presentation of the nomination paper it was incumbent on the Returning Officer to have satisfied himself with regard to the names and electoral roll numbers of the candidate and his proposer as entered in the Nomination paper, and he was to be satisfied that the said roll numbers were the same as those entered in the electoral rolls. The Returning Officer had satisfied himself as aforesaid on presentation of the nomination paper otherwise he would have permitted the correction if there was any error in the nomination paper when the Returning Officer had already satisfied himself as required under section 33(4) and therefore the question of his further satisfaction could not arise while scrutinising the nomination paper.
- (g) That the nomination paper of Shri Shri Narain was presented at 12.5 noon on the 29th the last date for the presentation of nomination papers. If the Returning Officer had not been satisfied with the entries in the nomination paper as required under section 33(4) of the said Act either that should have allowed the correction or he should have pointed it out that he was not satisfied with the entries so that Shri Shrinarayan could file another nomination paper under section 33 sub clause 6 of the said Act.
- (h) That there was neither any dispute with regard to the identity of the candidate nor that of the proposer and as such the nomination paper could not be rejected.
- (i) That the provisions of section 33 and section 34 was fully complied with and there being no non-compliance of section 33 or of section 34, the Returning Officer had no jurisdiction to reject the nomination paper of Shri Shrinarain.
- (j) That even under section 36 sub clause 2 a nomination paper cannot be rejected on the ground of any defect which is not of a substantial character even if non-mentioning of the Parliamentary Constituency against col. No. 2 of the nomination paper is at all to be regarded as a defect, the defect not being of substantial character the nomination paper could not be rejected.

(k) That the Returning Officer had no jurisdiction to reject the nomination paper on the grounds set forth in his order.

12. That your petitioner asserts that the election of respondent is materially affected by the Commission of aforesaid corrupt practices, and but for the aforesaid corrupt practices the respondent could not secure the majority of votes.

13. That the petition is presented within time.

14. That your petitioner has deposited as security the amount of rupees one thousand the receipt whereof is enclosed herewith.

PRAYER

Your petitioner humbly prays--

- (i) That the petition be accepted.
- (ii) That the election of respondent be set aside.
- (iii) That it be declared that the election of respondent is void;
- (iv) That any other relief that is deemed necessary under the circumstances of the case be granted;
- (v) That costs be awarded.

FATEH SINGH,

Humble petitioner.

The 26th April 1957.

I, Fateh Singh s/o Narain Singh, Rajput, resident of Jaipur, petitioner, verify that the contents of paras, 1, 2, 3, 10, 13, 14 are true within my personal knowledge and contents of paras 4, 5, 6, 7, 8, 9, are believed by me to be true in credible information received by me para 9 of the petition is true within my personal knowledge as well as believed by me to be correct, in the credible information received by me and para 11 is believed by me to be true on the basis of legal advice.

Encl: Receipt of money and schedules.

FATEH SINGH,
Petitioner, Deponent.

SCHEDULE I

Throughout the Constituency on the dates of polling sweets were distributed by the agents of respondent.

I, Fateh Singh s/o Narain Singh, Rajput, of Jaipur, petitioner, at Jaipur verify this the 26th day of April, 1955 that the contents of this schedule No 1 are believed by me, on credible information received, to be correct

FATEH SINGH,
Petitioner.

The 26th April 1957.

SCHEDULE II

That in the mosques at Dausa, Bandikui, Baswa, Sikandra, Bairath, Shah-pura, Laisot meetings were held and large number of Muslims attended the meetings where after prayers Mullahs at each mosque gave 'Fativas' as stated in para 5 of the petition

I, Fateh Singh, son of Narain Singh, of Jaipur petitioner verify this the 26th day of April, 1957 that the contents of this schedule No. II are believed by me, on credible information received, to be correct.

FATEH SINGH,
Petitioner.

The 26th April 1957.

SCHEDULE III

Serial No.	Name of the Polling Stations to which the electors were taken	Date on which the elections were carried in conveyances	No. of conveyances in which the electors were taken. Number are given as far as possible could be ascertained
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Bandikui

1	Kanawar Anvoli to Kanawar Balaheda to Alipur Baswa Polling Station	7-3-57 7-3-57	One Truck One truck
2	Dhandwar Bhojwada, Gudla Dhigaria, Billania-Bejupada Hingota-Maukhera Muhi to Gudakatla Haripura to Panditpura and Harnathpura. Abaneri to Bhandara	7-3-57 " " " " " " " " "	One jeep One jeep One lorry One jeep One jeep One jeep

Dausa-Sikarai Constituency

1	Sikandre Polling Station	5-3-57	One truck No. 133 RJD.
2	Sikaraya	5-3-57	Unnumbered truck.
3	Gijgarh	"	Truck & Jeep.

Lalsot

1	Mandir Balaji polling station under Lalsot (Presiding Polling officer-Taraprakash Joshi).	B.M.R. 1745 Jeep
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Jamwa Ramgarh

1	Andhi-Tholai Dhula	2-3-57	2 Trucks.
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I, Fateh Singh, son of Narain Singh, resident of Jaipur Sanganeri Gate, Petitioner, at Jaipur this 26th day of April, 1957, verify that the contents of this schedule III are believed by me, on credible information received to be correct.

FATEH SINGH,

Petitioner.

SCHEDULE IV

S. No.	Expenses incurred by the respondent and not shown in the return of expenses which amount to omission of material particulars and which show that the respondent actually incurred expenses on these items and if he had shown these expenses in the return of expenses the expenses would have far exceeded the prescribed limit	Date on which such expenses were incurred only such dates are mentioned which could possibly be ascertained	Place where such expenses were incurred only the details of such places are mentioned which could possibly be ascertained
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1	2	3	4
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1	The expenses incurred for bringing the 30 vehicles from Bombay, Kotah, Kuchaman Malsisar, Jamnagar, Delhi, and from other places and back to these places on Petrol, Mobil Oil, servicing etc. have not been shown, which amount to approximately Rs.	About a month prior to election and after the Polling had taken place.
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3,000. The details of these vehicles is given below:—

No. of cars and other vehicles.

BML	5863	Madhusudhan Mills Ltd. Bombay.
RJC	1461	United Merchantile Co. (Private) Ltd. Kuchaman/ Somani Trust Mandal, Malsesar.
PNE	4587 1214	The Marwar Textile Agen- cies (Private) Ltd. Bom- bay.
T.P.	54	
T.L.	87	
D.L.D.	2199	(Jeep) Shri Laxmi Agents (Private) Ltd., Jamnagar.
R.J.L.	65 2919 2941 3618 (Jeep) 3911 (Dodge) 2690 (Dodge)	(Jeep) Sri P.R. Gajjar jee. Shri Niwas Cot- ton Mills/(D.C.C. Jamnagar)
S.S.V.	5215	(Jeep) Digvijay Cement Co., Ltd. (Saurashtra)/ D.C.C. Ltd., Jamnagar.
DLD	192/197	(Plymouth) Do. Shri P.R. Gajjar jee.
Ford	V. 8 178	R.J. V/S.S.V.—Indian Cotton Purchases (Private) Ltd.
Jeep	235	Shri Gopal Industries Kotah/ P.R. Gajjar.
Jeep	5834	S.S.V. Digvijay Cement Com- pany Ltd. Saurashtra.
B.M.L.	5483	Shri Madhusudhan Mills Ltd., Bombay.
DLD	1442	Shri Bhimsinghji.
DML	4670	Willy Van Shri Niwas Cotton Mills Ltd., Bombay.
Jeep	1489	M/s. Rajasthan Constructions (Private) Ltd. Bombay.
RJG	239	Somani Trust Mandal Malsi- sar.
DLD	4115	P.R. Gajjar jee.
KJS	157	Do.
DLD	1442	Do.
RJL	178	Indian Cotton Purchasers Private Ltd., Bombay.
	913	
R.J.L.	6235	Shrigopal Industries Ltd., Kotah.
RJS	239	Ch. Truck—Somani Trust Mandal Malsesar.
2		Wages and T.A. of all drivers and cleaners of the vehicles who worked for about one month during the elections. Apprx. Rs. 3,000.
3		Conveyance & fooding expenses of Polling agents throughout the constituency numbering 447 Approximately Rs. 5,000.

4	The respondent had his election offices at Dausa, Lalot, Bandikui, Bairathi, Shah-pura, Sikrai, Dausi, Chaksu, Jamwaramgarh. Though the rent some offices have been shown as appeared from voucher Nos. 374, 322, 324 and 327 filed with the Return of expenses but the rent of other officers, wages of servants and mess expenses of such servants are not shown.	After election.	Sikrai Geejgarh etc.
5	Hire of truck No. 133 R.J.D. which was utilised for the convenience of voters to Sikrai Polling station and other vehicles engaged in the election and used for carrying electorals in addition to 34 or 35 vehicles brought from different allied concerns of the respondent. Apprx. Rs. 8000/-.		Dausa, Bandikui, Lalot, Jamwaramgarh Chaksu Dassi, Bairathi, Sikrai etc.
6	Rs. 5000/- paid to Lalloram Kanungo candidate through Bansidhar Rambilas Commission agents, Ramganj Bazar, Jaipur.	In the 3rd week of Feb. 1957.	Sikrai
7	Petrol bills of M/s. Motilal Chhajulal, Bandikui amounting to Rs. 1265/- on account of petrol supplies to vehicles Nos. 4670, 63, 711, 4836, 5215, 157, 1489, 5863, 133, for the period 3-2-57 to 8-3-57 which were utilised by the respondent for election out of which only vouchers No. 61 for 6-1-3 No. 188 for 24/8/-, No. 313 for 24/8/- totalling Rs. 551/3 have been shown in the return of expenditure and thus the remaining amount of Rs. 1210/- is not shown.	On or about 8-3-57.	Bandikui
8	Money, vehicles and other conveyance were given to the assembly congress and independent candidates throughout the constituency approx. Rs. 40,000/- but it has not been shown.	Prior to and during polling.	
9	Trunk telephone bills regarding telephone No. 186 Jaipuria Mansion, Bhagwan Dass Road, Jaipur, the election's head office of the respondent about Rs. 500/-.	During Election period.	P. & T. Deptt., Jaipur.
10	Publicity expenses : (a) Rs. 100/- paid to M/s. Rajasthan Patrika (evening Hindi daily) of Jaipur S.W.S. High May, Jaipur. (b) 500/- paid to Rashtradoot Hindi daily for propaganda purposes <i>vide</i> Rashtradoot receipt No. 6540 dt. 19-2-57 amount shown through M/s. Shri Niwas Cotton Mills, Ltd., Jaipur Bill No. 1708 dt. 31-1-57. (c) Rs. 500/- paid to Rashtradoot Hindi daily Jaipur <i>vide</i> receipt No. 6541 on 19-2-57 amount shown through Digmijay Cement Co. Ltd., Jamnagar. (d) Rs. 4/- paid to Rashtradoot, Jaipur through Shri Bhur Singh Purohit Sub-Officer M/s Shri Niwas cotton Mills Ltd. for one insertion published <i>vide</i> bill No. 1366 dt. 7-2-57. (e) Amount paid to Lokjivan, Jawala, weekly, Lokvani and Navyug Hindi Dailies for propaganda purposes Apprx. Rs. 30,000/-	3rd week of February. 19-2-57 19-2-57 19-2-57 During elections	Jaipur. Rashtradoot, Jaipur. Rashtradoot, Jaipur. De.

1	2	3	4
11	Money spent over the arrangement of public meetings for propaganda purposes throughout the constituency apprx. Rs. 2000/- As per details given below :—	During election	Dausa Constituency.
	Basai	21-2-57	
	Chaksu	7-2-57 & 11-2-57, 27-2-57.	
	Dausa	15-2-57, 1-3-57	
	Bandikui	4-3-57	
	Sikrai	29-2-57	
	Sikraya	29-2-57	
	Gijgarh	28-2-57	
	Jamwaramgarh	27-2-57	
	Shahpura	2-3-57.	
12	Amount paid to A.I.C.C. to obtain Congress Ticket for Dausa Parliamentary Constituency, Apprx. Rs. 1,00,000/-.		A.I.C.C., New Delhi.
13	Rent of Guest House and Dak Bungalows occupied by the respondent during elections.		
	Dausa on 3 & 5-3-57		
	Bandikui on 6 & 7-3-57		
14	Voucher No. 165- 35/11/9 show while there are two vouchers of 165 for 45/11/9, difference Rs. 10/-.		
15	Voucher No. 42 is for Rs. 4/13/3 instead of Rs. 4/13/6, difference for -/-3.		

The return of expenses if false in this respect as well that the accounts are not properly maintained and the vouchers are mutilated and are forged. Details will be furnished during the course of trial of the petition.

I, Fateh Singh, s/o Narain Singh, Rajput, of Jaipur, petitioner, do hereby verify that the contents of this schedule No. 4 are believed by me, on credible information received to be correct.

FATEH SINGH,

The 26th April 1957.

Petitioner.

SCHEDULE V

Throughout the constituency the false statement was published and was announced by loud speakers particularly between 27th February, 1957 and 9th March, 1957.

I, Fateh Singh, son of Narain Singh Rajput, of Jaipur, petitioner, do hereby verify at Jaipur this the 26th day of April, 1957 that the contents of this schedule V are believed by me, on credible information received, to be correct.

FATEH SINGH,

The 26th April 1957.

Petitioner.

[No. 82/370/57.]
By order,

DIN DAYAL, Under Secy.